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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 ALLAN COLE,

4 Plaintiff,

5 v.

16 Civ. 7014 (VSB)

6 UMG RECORDINGS, INC., et al.,

7 Defendants.

Conference

8 -----x
9 New York, N.Y.
10 January 19, 2017
11 11:14 a.m.

12 Before:

13 HON. VERNON S. BRODERICK,

14 District Judge

15 APPEARANCES

16 WARREN R. HAMILTON, ESQ.
17 Attorney for Plaintiff

18 JENNER & BLOCK LLP
19 Attorneys for Defendants
20 BY: ANDREW H. BART, ESQ.

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1 THE COURT: If the parties could just identify
2 themselves for the record.

3 MR. HAMILTON: If your Honor pleases, Warren R.
4 Hamilton for Allan Cole.

5 THE COURT: Okay. Mr. Hamilton, if I could just ask
6 you if you could pull the microphone close to you, and just,
7 when you do speak, speak into it, just so we are sure of
8 getting the record clear.

9 MR. HAMILTON: Yes, your Honor.

10 THE COURT: All right. And for the defendant.

11 MR. BART: Yes. Good morning, your Honor. Andrew
12 Bart from Jenner & Block for the defendants.

13 THE COURT: Okay. You may be seated.

14 MR. BART: Thank you.

15 THE COURT: Okay. So just preliminarily, I think --
16 and again, I don't believe it causes any issue, but Mr. Bart, I
17 think Jenner had an event for clerks the other week.

18 MR. BART: We did.

19 THE COURT: My clerk Lisa Sokolowski attended.

20 MR. BART: Yes, she did.

21 THE COURT: And she recalls maybe she spoke to you at
22 that event.

23 MR. BART: Yes, she did, your Honor.

24 THE COURT: Okay. All right. I just wanted to put
25 that on the record. Again, it's not really an issue. Law

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1 firms have various events.

2 MR. HAMILTON: It's not an issue from my perspective
3 either, your Honor.

4 THE COURT: Okay. All right. I appreciate that,
5 Mr. Hamilton.

6 So let me just review for the parties the documents
7 I've received in connection with today's conference. I have
8 the November 29th letter from Mr. Bart, and Mr. Hamilton's
9 January 11th letter. Is there anything else that I should
10 have in connection with today's conference? Mr. Hamilton?

11 MR. HAMILTON: No, your Honor.

12 THE COURT: Mr. Bart?

13 MR. BART: No, your Honor.

14 THE COURT: Okay. And just so you know, counsel, you
15 should feel free to remain seated. You can address me from a
16 seated position. If you prefer to stand, you can also do that.
17 That's fine.

18 So we're here on a premotion conference. The
19 defendant is going to seek to dismiss the complaint, and there
20 was also a portion of the letter dealing with potential
21 sanctions. But I do have some questions relating to the case.

22 First, Mr. Hamilton, in your letter, was there an
23 indication that you might amend the complaint on behalf of your
24 client?

25 MR. HAMILTON: Yes, your Honor. If your Honor please,

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1 we had a mini conference outside.

2 THE COURT: Okay. All right.

3 MR. HAMILTON: And against UMG, it's a long stretch.
4 It's a long stretch against Blue Mountain. But I think Blue
5 Mountain is more liable than anybody. If there is liability,
6 it would be Blue Mountain Publishing.

7 THE COURT: And we can get into the substance, but let
8 me ask this, Mr. Hamilton: When you do amend the complaint, do
9 you still intend to name UMG?

10 MR. HAMILTON: No. We won't name them. If they come,
11 if something happens where they're pulled in later on down the
12 line, we can add them, but I don't see where we would now.

13 THE COURT: Okay. This is what we're going to do.
14 Then I don't think there's a need for me to go through the
15 various issues. And Mr. Bart, I know that you had made
16 reference to Rule 11. I was going to go into that, but I will
17 tell you that I wasn't going to be inclined to, but again, I
18 wasn't saying that you wouldn't be able to file that motion.
19 But in light of, Mr. Hamilton, your representations that in all
20 likelihood UMG is not going to be named in the amended
complaint, I think that I will grant you -- and I'm not sure of
the timing of it and whether you still have the ability as of
right, but I'll grant you leave to amend the complaint. It
sounds like you're going to remove UMG.

25 There were additional factual allegations I think or

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1 factual statements that were made in your letter. Obviously
2 you have the opportunity now to add those to it.

3 MR. HAMILTON: Yes, your Honor.

4 THE COURT: What I'd ask you to consider are certain
5 of the arguments raised by UMG related to their position as a
6 corporation, in light of the history. But others related to
7 the issue of timing, and --

8 MR. HAMILTON: I understand.

9 THE COURT: -- that aspect of it, the statute of
10 limitations, is something that I think there are different
11 degrees to which each of the defendants will probably make that
12 argument.

13 MR. HAMILTON: I understand that's going to be their
14 argument for sure.

15 THE COURT: So obviously, to the extent that you can
16 at this stage, any information you can put in there that
17 addresses that issue, in other words, some tolling of the
18 statute of limitations --

19 MR. HAMILTON: I understand, your Honor.

20 THE COURT: Okay. All right. So Mr. Hamilton, how
21 much time do you need for that?

22 MR. HAMILTON: If you could give me 15 days.

23 THE COURT: All right. I'll give you 30 days. I was
24 going to give you 30 days, and I think that's sufficient for
25 you to review it. Obviously there are certain revisions that

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1 are going to be easy, just removing UMG, but there are others
2 that may take some time and you may need to consult your
3 client. So I will give you 30 days.

4 THE LAW CLERK: February 20th.

5 THE COURT: So February 20th to do that.

6 MR. HAMILTON: Yes, your Honor.

7 THE COURT: And obviously if your position changes
8 with regard to UMG, I'd ask that before you file anything, you
9 speak to Mr. Bart.

10 MR. HAMILTON: I will. At this point, it's a long
11 shot.

12 THE COURT: Okay. All right. Okay. Is there
13 anything else that we need to deal with today? Mr. Hamilton?

14 MR. HAMILTON: No, your Honor. I'm fine.

15 THE COURT: Mr. Bart?

16 MR. BART: No. Obviously I would love to have
17 certainty that, from my client's perspective, it's over.

18 MR. HAMILTON: It's over.

19 MR. BART: Okay. Fair enough. That's what I wanted
20 to hear.

21 THE COURT: Although, you know, you know the saying,
22 it's not over till the fat lady sings.

23 MR. BART: Of course that's true. And you know, as
24 the record will reflect, I reached out to Mr. Hamilton long
25 before contacting the Court in the hope that my client wouldn't

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1 incur any costs and he could go in the direction where, even
2 with uphill challenges, at least there is a potential claim,
3 since we are not involved in the compositions at all. And as
4 long as I have his representation that we won't be named, then
5 I'm fine.

6 THE COURT: If that does change, for whatever reason,
7 I would ask that, Mr. Hamilton, you reach out, have a
8 meet-and-confer before anything gets filed.

9 MR. HAMILTON: Now if Chris Blackwell brings them in,
10 it's not our fault.

11 THE COURT: No, I understand you can't control what
12 other parties may do once you file your amended complaint, and
13 that's an entirely different issue.

14 All right. Great.

15 MR. BART: Thank you, your Honor.

16 THE COURT: Thank you very much for coming in.

17 MR. HAMILTON: Thank you, your Honor.

18 (Adjourned)

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